

ROBERT P. VARIAN (STATE BAR NO. 107459)
CHARLES J. HA (WA Bar No. 34430 (*pro hac vice*))
DAVID KEENAN (WA Bar No. 41359 (*pro hac vice*))
CHRISTINE M. SMITH (STATE BAR NO. 267929)
ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, California 94105-2669
Telephone: (415) 773-5700
Facsimile: (415) 773-5759
Email: rvarian@orrick.com

Attorneys for Plaintiffs
[Additional Counsel appear on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AUDLEY BARRINGTON LYON, JR., et. al.,

Plaintiffs,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT, et. al.,

Defendants.

Case No.: 13-cv-05878 EMC

**PLAINTIFFS' NOTICE AND MOTION
FOR PERMISSION TO WITHDRAW THE
ACLU-NORTHERN CALIFORNIA, THE
ACLU-NATIONAL PRISON PROJECT,
AND ORRICK, HERRINGTON &
SUTCLIFFE LLP AS COUNSEL FOR
LOURDES HERNANDEZ-TRUJILLO**

[PURSUANT TO CIVIL L.R. 7 AND 11-5]

CLASS ACTION

Orrick, Herrington & Sutcliffe LLP, and the attorneys thereof; Julia Harumi Mass and Michael T. Risher of the American Civil Liberties Union Foundation of Northern California; and Carl Takei of the American Civil Liberties Union National Prison Project, pursuant to Civil Local Rule 11-5, move for permission to withdraw as attorneys of record for Lourdes Hernandez-Trujillo in the above captioned matter. The following are grounds for this motion:

1. On December 19, 2013, Lourdes Hernandez-Trujillo, along with Plaintiffs José Elizandro Astorga-Cervantes, Audley Barrington Lyon, Jr., and former Plaintiff Edgar Cornelio, filed suit as a putative class action against the Defendants in the above-captioned matter.

2. Plaintiffs' counsel last spoke with Ms. Hernandez-Trujillo on November 17, 2014. Declaration of Julia Harumi Mass in support of Plaintiffs' Motion for Permission to Withdraw the ACLU-Northern California, the ACLU-National Prison Project, and Orrick, Herrington & Sutcliffe LLP as Attorneys of Record for Lourdes Hernandez-Trujillo ¶ 2. During this meeting, Plaintiffs' counsel advised Ms. Hernandez-Trujillo that she would be required to respond to outstanding discovery requests for information relating to her as well as a request to take her deposition. *Id.*

3. During the November 17, 2014 meeting, Plaintiffs' counsel and Ms. Hernandez-Trujillo scheduled a follow-up meeting for December 17, 2014 to finalize Ms. Hernandez-Trujillo's discovery responses. Ms. Hernandez-Trujillo did not show up to this meeting. *Id.* at ¶ 3.

4. Despite diligent efforts, Plaintiffs' counsel has been unable to locate or communicate with Ms. Hernandez-Trujillo for more than two months. *See id.* at ¶¶ 3-7.

5. Plaintiffs' counsel attempted to call and email Ms. Hernandez-Trujillo on several occasions from late November 2014 until February 2015. *See id.* at ¶ 4.

6. On December 23, 2014, Plaintiffs' counsel mailed a letter to Ms. Hernandez-Trujillo to the two mailing addresses that Plaintiffs' counsel has on file for her, reminding Ms. Hernandez-Trujillo of her obligations as a Lead Plaintiff in this case. *Id.* at ¶ 5.

7. On January 30, 2015, Plaintiffs' counsel mailed a letter to Ms. Hernandez-Trujillo to the two mailing addresses that Plaintiffs' counsel has on file for her and via email, notifying

her that she would be dismissed from this case if she did not contact counsel by February 5, 2015. *Id.* at ¶ 6.

8. As of the date of this filing, Plaintiffs' counsel has not received any response or communication from Ms. Hernandez-Trujillo since November 17, 2014. *Id.* at ¶ 7.

9. On March 3, 2015, Plaintiffs' counsel advised Defendants' counsel of their intent to withdraw as counsel for Ms. Hernandez-Trujillo. *See id.* at ¶ 8.

10. On March 3, 2015, Defendants' counsel informed Plaintiffs' counsel that, under the circumstances, Defendants agreed to the voluntary dismissal of Ms. Hernandez-Trujillo's claims and Plaintiffs' counsel's withdrawal of representation from Ms. Hernandez-Trujillo. *See id.* at ¶ 9.

11. Concurrent with this motion, Plaintiffs' counsel is filing a joint stipulation regarding voluntary dismissal of Ms. Hernandez-Trujillo's claims without prejudice.

Based on the foregoing, Orrick, Herrington & Sutcliffe LLP, and the attorneys thereof; Julia Harumi Mass and Michael T. Risher of the American Civil Liberties Union Foundation of Northern California; and Carl Takei of the American Civil Liberties Union National Prison Project request permission to withdraw as Ms. Hernandez-Trujillo's counsel.

//

//

//

//

//

//

//

//

//

//

//

//

1 Dated: March 4, 2015

ORRICK, HERRINGTON & SUTCLIFFE LLP

2 By: /s/ Robert P. Varian

3 ROBERT P. VARIAN (SBN 107459)

4 CHARLES J. HA (WA Bar No. 34430 (*pro hac*
vice))

5 DAVID KEENAN (WA Bar No. 41359 (*pro hac*
vice))

6 CHRISTINE M. SMITH (SBN 267929)

JUDY KWAN (SBN 273930)

7 ALEXIS YEE-GARCIA (SBN 277204)

MATTHEW R. KUGIZAKI (SBN 286795)

8 JAYA KASIBHATLA (NY Bar No. 5208087 (*pro*
hac vice))

9
10 AMERICAN CIVIL LIBERTIES UNION
NATIONAL PRISON PROJECT

11 CARL TAKEI (SBN 256229)

12 915 15th Street N.W., 7th Floor

13 Washington, DC 20005

Telephone: (202) 393-4930

14 Facsimile: (202) 393-4931

Email: ctakei@aclu.org

15 AMERICAN CIVIL LIBERTIES UNION
16 FOUNDATION OF NORTHERN CALIFORNIA

17 By: /s/ Julia Harumi Mass

18 JULIA HARUMI MASS (SBN 189649)

19 MICHAEL T. RISHER (SBN 191627)

MEGAN E. SALLOMI (SBN 300580)

20 39 Drumm Street

San Francisco, CA 94111

21 Telephone: (415) 621-2493

Facsimile: (415) 255-8437

22 Email: jmass@aclunc.org

23 *Attorneys for Plaintiffs*

24 As the attorney e-filing this document, I, Robert A. Varian, attest that Julie Harumi Mass has
25 concurred in the filing of this document.

26 /s/ Robert P. Varian

27 ROBERT P. VARIAN

[PROPOSED] ORDER

Pursuant to Civil Local Rule 11-5, the Court hereby GRANTS leave to Julia Harumi Mass and Michael T. Risher of the American Civil Liberties Union Foundation of Northern California; Carl Takei of the American Civil Liberties Union National Prison Project; and Orrick, Herrington & Sutcliffe LLP, and the attorneys thereof, to withdraw as counsel for Lourdes Hernandez-Trujillo in the above-captioned matter.

IT IS SO ORDERED.

Dated: _____

HONORABLE EDWARD M. CHEN
United States District Judge